

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	No. 4:CR-04-0027
vs.	:	
	:	
DONALD R. MILLER	:	(Judge Muir)
	:	

ORDER

December 27, 2005

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Since the inception of this case Defendant Donald R. Miller has been represented by privately retained counsel Christian D. Frey. On October 17, 2005, a jury found Miller guilty of receipt of child pornography, possession of child pornography, and possession of marijuana. Miller's pre-sentence report has been circulated to counsel and a pre-sentence conference is scheduled for January 19, 2006.

On December 20, 2005, Attorney Frey filed a motion to withdraw as Miller's counsel. On December 23, 2005, Attorney Frey filed an amended motion for the same relief. Attached to the amended motion is a certificate indicating that government counsel concurs in the motion. For the reasons discussed below, the concurrence of opposing counsel is of marginal importance.

Local Rule 83.15, entitled "Withdrawal of Appearance," provides that

[a]pppearance of counsel shall not be withdrawn except by leave of court. The court may refuse to approve withdrawal. If counsel is superseded by new counsel, such new counsel shall enter an appearance and counsel who is superseded shall comply with this rule and apply for leave to withdraw from the action. The court may refuse to grant a motion for leave to withdraw unless substitute counsel has entered an appearance.

M.D. Local Rule 83.15.

No information has been presented to us as to the amount of fees paid defense counsel and what fees remain unpaid.

Furthermore, because no information has been presented to us that Miller is entitled to be represented by the Federal Public Defender's Office, his ability to retain some other counsel in this case is unknown. In the absence of such information, and because no substitute counsel has entered an appearance as required by the above Local Rule we will deny without prejudice Attorney Frey's motion and amended motion to withdraw as Miller's counsel.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Attorney Frey's motion (Document 131) to withdraw his appearance in this case is denied without prejudice.
2. Attorney Frey's amended motion (Document 132) to withdraw his appearance in this case is denied without prejudice.

s/Malcolm Muir
MUIR, U.S. District Judge

MM:ga